

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Mingdong Zhou. Confirmation No.: 7322
Serial No.: 10/516,759 Art Unit: 1642
Filed: March 3, 2006 Examiner: Goddard, Laura B.
For: ERBB3 BASED METHODS AND Attorney Docket No.: 11748-006-999
COMPOSITIONS FOR
TREATING NEOPLASMS

RESPONSE TO RESTRICTION REQUIREMENT UNDER 37 C.F.R. § 1.143

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Restriction Requirement dated June 11, 2008, for the above-identified patent application, Applicants elect, without traverse, to prosecute Group I, encompassing Claims 1-14, drawn to a method for preventing, treating or delaying neoplasm in a mammal, comprising administering to a mammal an effective amount of an ErbB-3 protein, or functional fragment thereof, whereby an immune response is generated against said neoplasm and said neoplasm is prevented, treated or delayed.

Further, with respect to the “protein or peptide” species, Applicants elect species (b), *i.e.*, amino acid residues 24-81 of the amino acid sequence set forth in SEQ ID NO:14. With respect to the “neoplasm” species, Applicants elect breast cancer. Applicants believe that claims readable on the elected species include Claims 1-4 and 6-14.

Applicants acknowledge the Patent Office’s indication that Claim 1 is generic and respectfully submit that pursuant to 37 C.F.R. § 1.141, upon allowance of generic claim(s), Applicants will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of the generic claim(s).
M.P.E.P. § 809.

Enclosed herewith is a request for a Petition for Extension of Time for two months up to and including September 11, 2008.

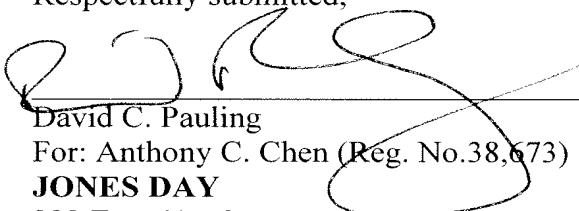
Applicants fully reserve the right to pursue non-elected subject matter in one or more later filed divisional, continuation, or continuation-in-part applications.

Applicants believe that the claims of the instant application meet all of the conditions for patentability and are in condition for allowance. Accordingly, an early indication of the same is respectfully requested.

No fees, other than that for the Petition for Extension of Time, are believed to be due with this response. However, pursuant to 37 C.F.R. §1.136 (a)(3), the Commissioner is authorized to charge all required fees, or credit any overpayment, to Jones Day Deposit Account No. 50-3013 (179049-999006).

Date: September 5, 2008

Respectfully submitted,


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